MAHARASHTRA

Housing for Bombay's Poor

Amrita Abraham

THE government of Maharashtra may find itself with no option after the end of August but to threaten to control rigorously the free market sales of flats if builders and landowners do not respond positively to the new urban land ceiling policy announced at the end of June. By mid-August there had been some 15 revised building plans submitted to the Bombay Municipal Corporation out of 1,868 cases pending. Housing officials said they were not unduly concerned by this slow response believing it would take more time to draw up revised architects' plans, etc. However, spokesmen of some of the associations of builders and developers have been sounding quite uncertain about — and in some instances positively hostile to — the new policy.

The crux of the problem for both government and developers is that there are two housing schemes-cum-policies to choose from. Both grant exemptions to landowners on condition that they construct small-sized tenements intended for the weaker sections on the land exempted from acquisition by the government. Given a choice, indications now are that developers would prefer Scheme I to Scheme II. The government, on the other hand, woke up gradually to the disadvantages of Scheme I, which was announced in 1979, and because it employed enormously dilatory and arbitrary tactics in clearing applications, was taken to court (where it faces a writ of mandamus). Scheme II was conceived — forced out of the government — as a means of cutting its losses. Scheme II gives public authorities more land and more tenements (details below) though it is arguable whether this is anywhere near 'enough'. (In any case, the debate just now is not what an urban land ceiling and acquisition law ideally should have laid down but what, given a badly drafted Act, the government can obtain for public purposes.)

Builders and landowners have a legal right to claim exemption under Section 21 of the Act and the housing schemes for the 'weaker sections' announced in 1979. But if they insist on exercising that right — rather than applying afresh for exemptions under Section 20 of the Act and the new housing schemes announced in June 1983 — the government can do one of three things.

It can go back to the *status quo ante* as of June 1983, which is to say the old delaying tactics, examining each of 1,868 cases one by one and hoping that the tediousness and harassment of it all will yield public authorities more than they can obtain by sticking to the letter of Scheme I. This assumes the courts will buy the government's argument that it is doing its best and that it has even offered petitioners a new scheme (Scheme II) which can be cleared more quickly, and so on. The government does seem to ask developers if such harassment is what they want — the pained tone of its June 1983 policy statement makes this point: the statement metaphorically wrings its hands about the unavoidable administrative delays in implementing the Act and developers are fully aware of this. It is impossible also to mistake the meaning of the following statement: "The surplus landholder has under the ULC Act equal right to apply under Section 21 as also under Section 20, though while deciding his application government have necessarily to restrict his choice to only one of the two sections. The Competent Authorities have been already requested to decide applications received under Section 21 with utmost expedition subject to the guidelines given by the government. Considerations for deciding application under Section 21 are bound to be different from those which will weigh when applications under Section 20 are to be disposed of. If large chunks of lands in consolidated manner will be available to government under Section 20, by voluntary surrender by the landowners, the prospect of granting the applications are bright."

But while the government clearly is prepared for such a course, it would be a last recourse. Uncertainty about the outcome and time are the disadvantages, as they are with the second course of action. The virtual freezing of all building activity for the last five years and the consequent rise in flat prices for all sections of the people in Bombay is not a situation that any government can survive indefinitely. The second course would be to negotiate afresh with builders and landowners for a package somewhere between schemes I and II. Opposition parties said during the last session of the Assembly that the government had already made too many concessions to the developers' lobby in Scheme II, and the CM assured them that no further concessions would be made. The possibility is admitted, however, of some variations in Scheme II if developers can make a convincing case on grounds of profitability.

The third course of action is to set up a whole administrative mechanism to control and oversee the free market sale of flats. The purpose of this seems obvious just now. If the majority of surplus landholders fall back on Scheme I and section 21, the government would be within its rights to do whatever it can to ensure that the scheme operates as it was laid down. In essence landholders can claim exemption if they construct tenements with a plinth area not exceeding 80 sq meters and tenements on half the exempted land must not exceed 40 sq metres. These were the Central government's guidelines. A price of Rs 90 per sq ft of plinth area was decided as the sale price of these tenements both to government and the public. However, there was no mechanism, nor even an attempt to set up one, to ensure that the tenements were sold on the market at the official rate. The tacit understanding between government and developers was that they would sell at the market price and developers could thus be 'compensated' for losses suffered on the tenements sold at the official rate to the government. Tenements on 90 per cent of the exempted land could be put on the market. Black market prices three or four times higher than the official rate of Rs 90 prevail in the suburbs of Bombay where a few of the thousands of flats sanctioned under the 1979 scheme have so far been put on the market. If the government were to insist on implementing this Scheme I as it was actually designed, it would have to ensure that all tenements were sold at the official rate — now raised to Rs 135 per sq ft because of cost escalations. Once the government made it plain that it intends to do this, builders and landholders would almost cer-

tainly find Scheme II more attractive. Even though applicants have to concede more tenements and in addition the large landholders large chunks of land to the government, they are also free under the scheme to sell a large proportion of tenements at the prevailing market rate. By comparison, a more rigorously controlled Scheme I where their profitability calculations would have to be based on the official rate for all tenements would no longer be a lucrative fallback.

Can the government regulate the free market sale of thousands of flats? Would the administrative mechanism that would be required for this make things better or worse? Would another group of people extract the real market price from the public through bribes and speed-money? The answers are obvious. But it seems that if the government is determined to push Scheme II through despite very reluctant developers, it must be prepared to consider such a course.

A significant blank area in the new policy statement is how the government proposes to distribute/sell its own quota of tenements. Under Scheme II the government anticipates it will be able to acquire 80,000 tenements, each 25 sq metres in size (or fewer tenements of a larger size). There are no guidelines for selling these to the public or specified categories of people. In the past these tenements have gone as favours to all variety of people. There is the notorious example of ex-chief minister A R Antulay being offered two of these tenements. Therefore, just as the government will have to set up an arrangement to sell its quota of 'weaker section' tenements which is insulated from political patronage, so this exercise and the underlying principles could conceivably be extended to all — one hundred per cent — of the tenements under Scheme I.

The new housing policy under the Urban Land Ceiling Act invites all applicants (there are 1,868 of them in Bombay) who seek exemption under Section 21 and the schemes laid down thereunder to apply afresh before September-end 1983 under Section 20 and the housing schemes outlined in the circular of June 29, 1983. Only the Central government can draw up schemes under Section 21 — "housing for weaker sections". The state government can grant exemptions and draw up housing schemes under Section 20 "in the public interest" and has done so in the past.

The June 1983 scheme (Scheme II) is a three-part package enabling the government to acquire land for public housing purposes (in this instance specifically the World Bank-aided sites-and-services scheme in the outer suburbs), to acquire land free of cost which is earmarked under the new draft Development Plan of the BMC, and to buy at Rs 135 per sq ft a certain progressive percentage of tenements.

Crucial differences between this and the 1979 scheme (Scheme I) are :

(i) No land is acquired for any purpose under Scheme I. In Scheme II both types of land are acquired free of cost, after it has been drained and levelled and certified as fit for construction by the municipality, and must be free of encumbrances and must have a motorable access road provided at the landholder's cost. The total land area which is surplus under the Act and for which exemption from acquisition is being claimed adds upto 2,250 hectares. Under Scheme II, the government calculates that it stands to acquire 375 hectares of developed land for its sites-and-services schemes and transit camps (no other end purposes have been specified), of which 250 would be buildable; plus 600 hectares earmarked under the new Development Plan which has not yet been made public. If to this free land is added 200 hectares build-up area (under tenements purchased by government and including surrounding open spaces), the government would get 1,175 hectares or over 50 per cent of the land. (Under Scheme I the government could estimate to get about 10 per cent of the land exempted which would be under the tenements it purchased from developers.)

(ii) The government would be in a position to buy many more fixed rate tenements under Scheme II than under Scheme I. Landholders with upto 15,000 sq metres (who together hold about 1,000 hectares) do not have to surrender any land to the government. They surrender between 15 and 35 per cent of tenements at a predetermined rate. Landholders with bigger holdings surrender a proportion of land free of cost and a proportion of tenements at a predetermined rate. They surrender between 25 and 30 per cent of the land. Those with more than 50,000 sq metres net buildable land surrender 30 per cent of the first 50,000 sq metres plus 60 per cent of the balance. Net buildable land means the area obtained after deducting Development Plan reservations and area under notified slums.

As for the size of tenements: 25 per cent must be in the size 25 sq metres plinth area; 25 per cent 40 sq metres and the rest upto 80 sq metres.

There are many serious loose ends in the policy statement. One is to whom will the government sell its own quota of tenements?

Secondly, there is a five-year limit on utilising the land after sanction has been received. Housing officials admit that it is physically impossible to construct so many tenements in that time. Since the government has changed its mind, its policy and its schemes so often, developers may hold out in the hope of better days in the future. In any case, no one in his right mind is going to put up so many tenements so fast and see the market crash. The government must, therefore, have some plan, related to municipal and other services and employment (even it hugs this plan to itself), of where the new tenements will go up and when.

Thirdly, there are reservations under the yet undisclosed BMC Development Plan. Mantralaya is going by the BMC's word that 600 hectares reserved are in the surplus land category but some developers have grave reservations about this and the BMC's ability to utilise the land. They fear that it will be encroached upon and reservations for high-minded purposes like "housing for the dishoused" will come to naught.

Fourthly, even in the calculation of net buildable land, on which the surrenders of tenements and land is based over 50 per cent of the area of large plots is considered unbuildable since it goes on roads, gardens and parks, other recreation spaces, etc. By the BMC's present record it seems likely that much of this will also go on encroachments, mostly by commercial interests. (A popular but unconfirmed statement is that only 15 per cent of the 1964 DP reservations have been utilised so far.)

Fifthly, the policy statement does not set out what it intends to do about land in the island city (A to G wards) which does not come under Scheme II or about surplus land in industrial zones.

There are indications that the lobby which has been negotiating with the government since about last March — a congeries of landowners, developers, big and small builders

and professionals in the construction business — is split over the new proposals. Some builders are saying they have been "cheated", that the government is demanding far more now than anything that emerged during discussions; a housing official admits that the new proposals require developers to concede twice as much as they offered during the talks, but he indicated that the proposals were based on calculations of reasonable profits for developers.

Most landowners have entered into agreements with developers and builders and both parties are eager to get on with construction, instead of tying up funds pending government clearance. Smaller landowners, therefore, with holdings of net buildable land upto 15,000 sq metres, are said to be inclined to accept the new proposals since they must surrender only a proportion of tenements and no land at all. A builder said that the demand on larger landowners in terms of both land and tenements was 'fantastic' and that they would most likely insist on Scheme I. A landowner with one lakh sq metres net buildable land, for instance, must surrender 45,000 sq metres of developed land free of cost; he will be allowed to sell on the market only the tenements put up on three-quarters, roughly, of the rest of his land.

Some developers have been saying that the World Bank officials who were in the city recently to discuss funding for the sites-and-services scheme and the Kamathipura project, voiced serious doubts about the new urban land ceiling policy arguing that it was not realistic. But the secretary of the Housing and Special Assistance Department denied this. He said the World Bank was keen to see land made available for mixed housing, high density schemes with fully serviced 20-30 sq metre plots for the economically weaker sections.

Two fundamental constraints are assumed in the new housing policy. One is the Act itself. The other is that the public sector on its own cannot cope with the housing needs of the poor in the city. The sites-and-services programme is based, with World Bank encouragement, in cost recovery terms on cross-subsidies which involve making sites available to some better-off sections of the public as well as the very poor. A similar principle underlies the urban land ceiling policy: the combination of free market sales to 'subsidise' the surrender of land free of cost to the government and the sale of some tenements at a fixed price.

The effect of this is that the majority of buyers in the market will be from the middle and upper middle classes who themselves face a severe shortage of new housing just now. And from the amount of land and number of tenements that will fall to the government it is apparent that truly 'weaker sections' will scarcely be touched. The ULC Act has yielded little or nothing for public purposes so far and from the difficulties in extracting something, described here, it is unlikely that it will in the end yield much more for the truly 'weaker sections'.

The government must, therefore, turn from World Bank approved formulae to planning what it can itself do for the urban poor. If the housing requirement for the poorest section of the population of Bombay is today defined as sites-and-services schemes, the government must find the land for these schemes from the vast hectares in the possession of public authorities. It should be remembered that the current sites-and-services scheme which is fast becoming the showpiece of the government's concern for the poor was originally intended to be 'incremental' housing — i e, housing for the future growth of Bombay's poor and not to accommodate the poor who live in the city now. They need sites-and-services programmes in every ward of the city and the land for them can only come from the holdings of the defence ministry, the port trust, the municipality and the state government.

ANDHRA PRADESH

Dividing the Poor

M Shatrugna

THE loss of 230 acres of irrigable land belonging to 46 ex-servicemen in Allur Block, Bapatla taluq of Guntur district, due to political interference, administrative inaction, and bureaucratic bungling, shows the 'concern' of the government about the poor. Though the land was in the legal custody of the beneficiaries for more than 20 years, it did not prevent the political bosses and the state agencies from evicting the ex-servicemen in a most heartless manner. The entire episode shows how one group of poor is set against another, by politicians to further their own interests.

One hundred and fifty ex-servicemen, demobilised after the Second World War, were assigned, in the 1950s, 750 acres of deforested Meedelaparra forest area, for rehabilitation. A total of 2,287 acres of deforested area, covering Meedelaparra, spread over the three villages of Nizampatnam (Repalle taluq), Allur and Ganapavaram (Bapatla taluq), was distributed among political sufferers (822 acres), ex-servicemen (750 acres), and landless poor (715 acres), by the then Government of Madras Presidency by an order (GO Ms No 3287, Revenue Department dated December 30, 1950). Of the 750 acres allotted to the ex-servicemen, 520 acres lies in Nizampatnam area and 230 acres in Allur village. The entire 750 acres were under the occupation and custody of these people till 1957. By this time, they had cleared the forest, dug wells, used pumpsets to lift the water and also managed to dig a two mile long canal. The yield from the land gradually grew. from three bags of paddy to 20 bags per acre. They had also built 150 thatched houses.

Things began to change with the formation of Andhra Pradesh in 1956. The prosperous land was the envy of many, especially the local Congress politicians. The Congress politicians, with their eyes firmly set on the land, adopted the typical carrot and stick policy to snatch it. First, a memorandum was submitted to the District Collector, JPL Gwynn (the last British ICS officer serving the state), saying that the original 2,287 acres land had dwindled to 1,500 acres due to digging of wells, canals, etc. Therefore, the available 1,500 acres should equally be divided among the three categories of beneficiaries, *viz*, political sufferers, ex-servicemen, and landless poor. Secondly, the 230 acre 'excess land' that falls in Allur Block (where the head of the two-mile canal begins) should be given to political sufferers. Gwynn rejected the petition. The petitioners were better prepared. They knew that Gwynn could be overruled only by the Revenue Minister.

The then Revenue Minister, Kala Venkat Rao, was more than willing to help the 'political sufferers'. On receipt of the petition, the Revenue Minister accompanied by the District Collector visited the area on Augest 12, 1957. He apparently found that, of the 750 acres allotted to the ex-servicemen, only '16 acres' were irrigated. The Minister also 'noted' that the available land was only 1,500 acres, the rest having used for digging canals etc, 'to